

Parameters and procedures of the Inter-American System of Human Rights in children's rights violation lawsuits

Parâmetros e procedimentos do Sistema Interamericano de Direitos Humanos em processos de violações de direitos da criança*

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ABSTRACT

The parameters and procedures adopted by the Commission and the Inter-American Court of Human Rights concerning child rights violations processes are the main subject of this work. While inter-regional scale provides effective punishment to rights violations committed by the State take place, this system has structural limitations to judge all violations demands. Therefore, these are the investigated questions: 1) What are the parameters and the procedures adopted by the Commission and the Court to select and solve the demands of child rights violations? 2) What are the repercussions of the court decisions related to the processes of child rights violations in the State where these violations occur? The methodology systematizes the guiding parameters of the Inter-American system in human rights violations cases included five variables: a) status of the country in the Inter-American American system; b) receipt and referral of complaints by the Commission; c) referral of complaints from the Commission to the Court; d) cases judged in the Court by authorship; e) cases judged in the Court in relation to rights violated. To understanding specifically the court procedures in child rights violations we made a comparative analyze of all child rights violations cases judged by the Court between 1993 and 2004. In order to better understand the lawsuits involving children that are judged by the court, the case Walter Bulacio, which took place in Argentina, was selected for analysis.

Key Words: Inter-American Human Rights System. Children rights. Implementation of Human Rights.

RESUMO

Os parâmetros e os procedimentos adotados pela Comissão e pela Corte Interamericana de Direitos Humanos a respeito de processos de violações dos direitos da criança são o tema principal deste trabalho. Enquanto no âmbito regional inter-regional, o sistema proporciona efetiva punição

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para violações de direitos cometidas pelos Estados, este sistema tem limitações estruturais para julgar todas as violações informadas. Portanto, estas são as questões investigadas: 1) Quais são os parâmetros e os procedimentos adotados pela Comissão e pelo Corte para selecionar e resolver as demandas de violações dos direitos das crianças? 2) Quais são as repercussões das decisões judiciais relacionadas aos processos de violações dos direitos da criança no Estado onde ocorrem essas violações? A metodologia sistematiza os parâmetros norteadores do Sistema Interamericano em violações dos direitos humanos dos casos incluídos cinco variáveis: a) de status do país no sistema Interamericano; b) recebimento e encaminhamento de denúncias pela Comissão; c) encaminhamento de reclamações da Comissão para a Corte; d) casos julgados na Corte por autoria, e) casos julgados na Corte em relação aos direitos violados. Para compreender, especificamente, os procedimentos judiciais em violações dos direitos das crianças, fez-se uma análise comparativa de todas os casos julgados pela Corte acerca de violações dos direitos da criança entre 1993 e 2004. A fim de entender melhor os processos que envolvem crianças que são julgados pela Corte, o caso Walter Bulacio, ocorrido na Argentina, foi selecionado para análise.

Palavras-chave: Sistema Interamericano de Direitos Humanos. Direitos Humanos. Implementação dos Direitos Humanos.

1. INTRODUCTION

The Inter-American system of human rights is made up of four main legal documents: the Charter of the Organization of American States, the American Declaration of the Rights and Duties of Man (1948), the American Convention on Human Rights (1969) and the Protocol of San Salvador. There are also two institutions that evaluate violations of these treaties: the Inter-American Commission on Human Rights (1969) and the Inter-American Court of Human Rights (1979).

The commission and the court also have jurisdiction to act in cases relating to children's rights violations provided for in the Inter-American Convention (article

19)¹ and in other international treaties ratified by the American States, such as the Convention on the Rights of the Child (1989).

As such, this article focuses on the analysis of children's rights violation lawsuits in the scope of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. The issues investigated are as follows:

1) What are the guiding parameters and the procedures adopted by the Commission and the Court when accepting human rights violation claims, and more specifically, children's rights violations?

2) What are the repercussions of these decisions in relation to the lawsuits judged by the Court within the scope of the state in which the violation took place?

The initial hypothesis is that if, on the one hand, it is on the regional scale that one may find effective legal mechanisms to hold States responsible for the rights violations committed and thus offer compensation to victims, on the other, regional institutions have limitations in effectively accepting and answering all claims received.

The empirical research is carried out on two levels. On the first level, the reports and statistics of the Inter-American Court are analyzed with the objective of identifying the general parameters that define the commission's and court's acceptance of claims of human rights violations. On the second level, accepted cases of children's rights violations in the scope of the Inter-American system between 1993 and 2004 are compared with the aim of identifying the specific procedures adopted and the repercussions of decisions in the scope of the states.

In the first part of the article, the literature that grounds the Inter-American human rights system is analyzed, highlighting its potential and limits in the summation of human rights in the region. In the second part, variables are defined to analyze the probable parameters that mark out the acceptance of cases in the scope of the Inter-American system. In the third part, a qualitative analysis of the procedures adopted by the Inter-American system in cases of children's rights violations is presented.

1 ORGANIZAÇÃO DOS ESTADOS AMERICANOS. *Convenção americana sobre direitos humanos*. 1969. Available in: <<http://www.corteidh.or.cr>> Access in: 01 jul. 2012.

2. THE INTER-AMERICAN SYSTEM: THEORETICAL FOUNDATIONS

The literature on human rights is quite ample so, in this article, we highlighted the themes that are considered central to an analysis of the Inter-American system of human rights, those being:

- a) The importance of regional systems as collective mechanisms for the consummation of human rights and the international accountability of the States in rights violation cases;
- b) The limits and potential of procedures and forms of decision making in the scope of international human rights regimes;
- c) The structural and procedural limitations of the Inter-American system.

The Inter-American system of human rights is structured in two levels. The Inter-American Commission on Human Rights has jurisdiction regarding States belonging to the Organization of American States and, the Inter-American Court of Human Rights deals with States that ratified the Inter-American Convention on Human Rights and that formally recognize its authority. Of the 35 OAS member countries, 25 ratified the Convention and 21 of these recognize the jurisdiction of the Court.²

André Ramos (2012)³ views as a fundamental aspect of the Inter-American Convention the capacity to generate State international responsibility when it argues, in its first article, that the State must “ensure respect for the human rights recognized and safeguard the use of these rights by every person under its jurisdiction”. Besides this, the convention also reinforces this responsibility in affirming, in its second article, that the State must introduce the internal measures needed to comply with the Convention.

The State's international responsibility is evaluated by the Commission and the Court. Complaints of human rights violations provided for in the international human

treaties are first presented to the Inter-American Commission on Human Rights for evaluation of admissibility. When the case is accepted, the Commission gathers the parties together (plaintiffs and defendants) with the aim of reaching a friendly solution. When a solution does not materialize, the case may be reported to the General Assembly of the OAS or referred to the Inter-American Court, when it concerns complaints taking place in the States that recognize its authority. The Court can therefore adopt distinct procedures: indicate provisional measures to remedy or minimize effects of violations or, in the light of a litigious case, undertake the trial process (reaching a verdict on the merits, compensation, costs and follow up of compliance with decisions).

The Inter-American system is characterized by procedures that allow for decision making on the part of the international bodies - the Court and the Commission. In this regard, it differs positively from the general system of the UN's human rights bodies that are not endowed with interpretative and deliberative powers (of the enforcement type). According to the analysis model prepared by Donnelly⁴, the international human rights regimes may be characterized by the different procedures adopted combined with the “degrees” of national sovereignty transference to the international authorities. The typology proposed by Donnelly includes four forms of human rights regimes: 1) Declaratory regime (only the norms are international, the decision making process is exclusively national); 2) Promotional Regime (in which the international organizations act in the promotion, assistance and exchange of information); 3) Implementation regimes (international organizations act in the exchange of information, policy coordination and in monitoring) and 4) Enforcement Regimes (the international organizations adopt strong forms of monitoring and make decisions).

The Inter-American system of human rights, with Donnelly's typology as reference, may be characterized as an “enforcement regime”, as far as its main institutions, the Commission and the Court, are endowed with interpretative and decision making legal resources. It is worth remembering that this decision making power is only established through the formal recognition of the power of these international institutions by the American States.

2 FOR MORE ON THE INTER-AMERICAN SYSTEM. Available in: <<http://www.corteidh.or.cr/sistemas.cfm?id=2>>. Access in: 14 jul. 2013.

3 RAMOS, André de Carvalho. *Processo internacional de direitos humanos: análise dos sistemas de apuração de violações de direitos humanos e a implementação das decisões no Brasil*. Rio de Janeiro: Renovar, 2002. p. 424.

4 DONNELLY, Jack. International human rights: a regime analysis. *International Organization*, Toronto, v. 40, n. 03, p. 599-642, 01 jun. 1986.

The Inter-American system, however, is not exclusively characterized by its potential. Cavallaro and Brewer⁵, in an investigation that focuses on litigation in the scope of the commission and the court, identify and analyze the limits of this system. The authors start from the observation that the increase in the number of countries under the jurisdiction of regional human rights courts, as well as the increase in the number of cases of violations received, could produce a mistaken “overvaluation of the courts’ degree of success in protecting individuals in relation to rights violations” For the authors, an analysis of current domestic impact of international decisions reveals a gap between what constitutes a sentence and what is accepted by the State, as we can see below:

[...] in states where the respect for human rights is not rooted, the courts will have little success in having their decisions implemented, especially when the decisions involve significant political and financial commitment or situations of endemic human rights violations.⁶

Mindful of this, the authors prepare a model indicating key aspects to be considered so that litigation initiated in a regional environment positively affects domestic (national) human rights practices. In this way, in order to maximize their effectiveness, the regional courts should:

Not direct themselves exclusively to governments, but should also consider the work of social movements, non-governmental, human rights activist and national organizations.

Prioritize individual emblematic cases in terms of persistence or structural problems relating to human rights in the country, as a manner of stimulating broad (overall) changes in relevant problems.⁷ Maintain its impartiality in the judgment of cases, but consider the political context of the region in which they act in the sense of adopting procedures and jurisprudence that collaborate in the advance of human rights.

To verify the arguments proposed, Cavallaro and Brewer investigated the work of the commission and the Inter-American court, based on the analysis of a court report (2007) that includes data from 1988 to 2007. The authors found that although the number of cases of violations received by the commission did increase significantly in the period analyzed, going from 1,300 petitions, in 2004, to 1,456, in 2007, the fraction of resolved cases is very small given that of the 1,456 petitions received in 2007, only 65 were admitted and, of these, 40 were referred to the court. In the scope of the court, the authors also found an increase in the cases with final decision, which went from 01 to 04, in the first decade of operation, to 10 to 14, but this number is also limited when the number of cases sent to the Court by the Commission is considered. The increase in the number of cases with final decision was the result of a reform, carried out in 2001, which had the principal objective of reducing the time spent on each case. As such, measures were adopted such as reducing the number of hearings and witnesses per case. This type of measure, in the view of Cavallaro and Brewer, can compromise the quality of the lawsuit thereby lessening the impact of decisions in the scope of the States in which the violation took place, seeing as, with the reduction in time, the possibility for internal publicity and the mobilization of movements around the cases becomes restricted and, with the reduction of witnesses, the quality of the lawsuit can be compromised in terms of producing evidence that could potentially be used in the reopening of internal processes to determine the responsibility of agents from the State reported for violation.

With a view to updating the data and interpretations relating to the possibilities and limits of activity of the Inter-American system, in item 2 of this work, data from the 2009 Court report are analyzed. It is intended to systematize the guiding parameters of this activity.

3. GUIDING PARAMETERS OF THE INTER-AMERICAN SYSTEM IN CASES OF HUMAN RIGHTS VIOLATIONS

Human rights no longer need to be substantiated, but rather consummated. This is the starting assumption, from Norberto Bobbio⁸, which justifies and inspires the analysis of guiding parameters for the acceptance

5 CAVALLARO, James L.; BREWER, Stephanie E. Reevaluating Regional human rights Litigation in the twenty-first century: the case of the Inter-American Court. *The American Journal of International Law*, Washington, v. 102, p. 768-827, quarterly, 2008. p. 769

6 CAVALLARO, James L.; BREWER, Stephanie E. Reevaluating Regional human rights Litigation in the twenty-first century: the case of the Inter-American Court. *The American Journal of International Law*, Washington, v. 102, p. 768-827, quarterly, 2008. p. 770.

7 CAVALLARO, James L.; BREWER, Stephanie E. Reevaluating Regional human rights Litigation in the twenty-first century: the case of the Inter-American Court. *The American Journal of International Law*, Washington, v. 102, p. 768-827, quarterly, 2008. p. 771

8 BOBBIO, Norberto. *A era dos direitos*. Rio de Janeiro: Elsevier, 2004.

ce and initiation of lawsuits for human rights violations in the Commission and the Inter-American Court.

The first working hypothesis is that the parameters that mark out and define which cases are accepted by the Commission and referred to the court can be understood considering the following variables and categories:

See **Table 1** - Variables used in empirical analysis

3.1 Status of the country in the Inter-American system

In relation to the country's status in the Inter-American system (variable 1) it was noted that all 35 of the continent's countries are members of the Organization of American States, thereby recognizing the work of the Inter-American Commission on Human Rights. (See Table 1)

The 25 Member-States that ratified the American Convention are: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, El Salvador, Ecuador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Surinam, Trinidad and Tobago, Uruguay and Venezuela. Those that did not ratify it were Antigua and Barbuda, Bahamas, Belize, Canada, Cuba, United States of America, Guyana, Santa Lucia, Saint Vincent and the Grenadines, and Saint Kitts and Nevis. The State of Trinidad and Tobago withdrew from the Convention on May 26, 1998, with effect from May 25, 1999, under the terms of art.78 of the Convention, whereby its obligation with respect to Convention continues in relation to violations committed by the State prior to the withdrawal coming into effect. (See Table1)

Currently, of the 25 States that ratified the Convention, 21 recognize the jurisdiction of the Inter-American Court. As such, only Dominica, Grenada, Barbados, and Jamaica do not recognize the Court's jurisdiction, even having ratified the Pact of San José in Costa Rica. (See Table 2).

3.2 Acceptance and referral of complaints by the Inter-American Commission

The admissibility criteria adopted by the Commission for a case to be accepted are agreed in articles 44, 45, 46 and 47 of the ICHR, which are summarized below:

Exhaustion of all internal legal resources, that is, in a national scope;

Six months passed after final case decision at the highest national;

The case must not have been referred to any other international body;

Must contain the identifying data of the author;

Refer to human rights violations.

Once the case complies with the technical criteria, the commission may decide to accept the complaint against a State, or not. Analyzing the data contained in the 2009 Commission report, it was noted that of the 1,431 complaints presented to the Commission just 122 complaints (8.5%) were accepted, data, which are similar to those, found for 2007, analyzed by Cavallaro and Brewer.⁹

There are no systematized data available to verify if all the unaccepted complaints (91.5%) were refused exclusively for not fulfilling the technical criteria for admissibility or for reasons of another nature. Therefore, it was decided to verify what the relation was between the volume of complaint acceptance by the Court (variable 2) and the status of the country in the Inter-American system (variable 1).

See **Table 2** - Status of the Country vs Complaints

All of the six countries with the higher number of complaints referred (more than 100) are countries that ratified the Convention and that recognize the Court's obligatory power. In the subsequent scale, countries that had between 10 and 99 complaints, all except one ratified the Convention and recognized the Court's jurisdiction. Among the twelve countries with the lowest number of complaints referred (less than 10), three did not ratify; the rest (nine countries) ratified and recognized the Court's jurisdiction. The eight remaining countries, which did receive any complaint, did not ratify the Convention, with the exception of one that did so while not recognizing the Court's obligatory jurisdiction. Therefore, as would be expected, it was noted that the fact that a country not only ratifies the Convention, but also ratifies and recognizes the Court's jurisdiction is a fundamental factor in motivating the referral of complaints.

9 CAVALLARO, James L.; BREWER, Stephanie E. Reevaluating Regional human rights Litigation in the twenty-first century: the case of the Inter-American Court. *The American Journal of International Law*, Washington, v. 102, p. 768-827, quarterly, 2008.

Regarding the acceptance of complaints by the commission, it is noted that it is proportionally very low in relation to the number of complaints sent, given that, of the 1,431 complaints sent, only 122 were accepted.

It was also found that there is no exact correlation between the number of complaints sent and those accepted. Three of the four countries with the highest number of complaints sent (Colombia, Peru and Argentina) obtained the largest number of complaints accepted.

However, this proportion is also not exact, seeing as Argentina, for example, when compared to the four countries, is the one that showed the least number of complaints sent, but it is the second in terms of complaints accepted. Still on this line, Peru is the country that obtained the largest number of complaints accepted (forty and six complaints), but occupies third place in terms of complaints presented. The explanations for the data found are still limited, in a similar manner to that noted for the total of countries. In the correlation analysis by country, it was also noted that the volume of complaints accepted is very low in relation to those presented.

3.3 Complaints presented to the commission and accepted by the Inter-American Court

See Table 3 - Cases accepted by the Commission vs Cases presented to the Court

On analyzing the data relative to cases accepted by the Commission and presented to the Court, it is noted that only 10% of the cases accepted by the commission annually are sent to the court. The cases may not be sent for diverse reasons: 1) A conciliatory solution between the parties, victims and States, is reached in the Commission scope. It's important emphasize that in these cases the Commission has a quasi-judicial role. 2) They may have been evaluated as cases that do not require judgment, but rather measures of another order (e.g. petitions, provisional remedy). Besides this, it is worth noting that other numbers show themselves to be relevant for an accurate analysis of the possibilities such as, for example, open-ended petitions and the number of shelved cases.

3.4 Type of authorship in cases judged by the Inter-American Court

Analysis of data provided by the variable "type of authorship" aims to see if there is some trend regarding

acceptance by the Inter-American Court of lawsuits originating from a certain sector of society. Analysis was divided in three segments of lawsuit authors (plaintiffs): 1) Organization: non-governmental organizations or coalitions of these organizations are characterized as the plaintiffs, or representatives of the victims, presenting the case to the Inter-American Commission; 2) Individuals: when authorship is limited to a person or a group of people, even if advised by lawyers, in the act of lawsuit presentation; in these cases, the individuals are the representatives; 3) Mixed: mixed authorship is when the lawsuit is initiated by individuals and later a non-governmental organization takes over the representation role in the capacity of two or more representatives on the case file.

On analyzing the data of cases presented to the Inter-American Court of Human Rights referring to the years between 2004 and 2009, it is noted that, of the 79 cases that were judged, 41 (51%) were brought by non-governmental organizations; 28 cases (35.44%) had individuals as official representatives of the victims and 10 cases (12.61%) had mixed authorship. It is worth noting that of the 41 cases presented by Organizations, 23 (56.09%) had the Center for Justice and International Law- CEJIL as principal or integrated author.

The data found reveal a significant trend on the part of the Court in relation to the nature of the cases judged – that of the priority acceptance of cases submitted by non-governmental organizations. This data tallies with the central argument of Cavallaro and Brewer. The authors argue that the international courts frequently do not singly obtain full compliance with their decisions on the part of the state held responsible for violation. The advances in relation to this compliance with decisions, and in a broader sense in relation to the protection of human rights in the states, are generally achieved through

social movements, human rights activists, members of the media, members of government with progressive views on human rights, and of other players that carry out long term campaigns in defense or support of political/policy improvements in a certain area.¹⁰

The authors therefore contend that the supranational courts have more probability of being effective

¹⁰ CAVALLARO, James L.; BREWER, Stephanie E. Reevaluating Regional human rights Litigation in the twenty-first century: the case of the Inter-American Court. *The American Journal of International Law*, Washington, v. 102, p. 768-827, quarterly, 2008.

when their procedures and jurisprudence are relevant long term for those players who could join forces to advance human rights.

The practice of CEJIL is, therefore, revealing of this phenomenon, as far as this organization's principal and most noteworthy activity is the defense of victims through the Inter-American system. The Center is financed by regional protection bodies and works with the submission and follow up of cases on the level of international law and in the decision-making bodies of the Organization of American States. The Center adopts as its principal strategy of human rights protection and defense the cooperation between violation victims and the national and international human rights defenders and/or organizations.

By means of this strategy, CEJIL aims to prepare the case in a more effective manner and, apart from this, mobilize the largest number of people possible in the follow up of decision enforcement. The cases that are accepted by CEJIL are characterized as paradigmatic cases, that is, they have recognized potential for institutional change and may prevent the perpetuation of standards of abuse and systematic human rights violations in the states. As such, CEJIL and other non-governmental organizations play a fundamental role in the whole process developed by the Inter-American System of Human Rights, fomenting part of the structure needed to implement decisions determined by the Court, thereby widening their power of enforcement.

3.5 The cases judged by the Inter-American Court and Violated Human Rights

The guiding instrument in decisions made through the Inter-American system is the Inter-American Convention on Human Rights. In this sense, at the time of the recorded litigation, the Inter-American Court report presents the case based on the Inter-American Convention articles that were allegedly violated by the accused State. This study presents data relating to violations of guarantees and human rights, on the part of the American States, cited in the court cases from the years 2004 to 2009.

It was thus noted that of the 82 articles contained in the Inter-American Convention, 17 were cited in lawsuits judged by the Court in the aforementioned period. In Table 4 below, the articles that received more than 10 violation complaints are detailed.

See Table 4 - Recurrence of rights violation

As can be seen, article 25, which ensures "Judicial Protection", heads the list as the article with the highest number of violations by the countries tied to the Convention in the time period analyzed¹¹. Subsequently, article 8 of the Convention, that of "Judicial Guarantee", which grants every person the right to due legal process¹², follows with 58 complaints.

These data reveal a preoccupation of the Inter-American System with the legal capacity of the State, after all, it considers as relevant the Inter-American Court judgment of cases related to the denial of access and the validation of the previously established right (in the state scope), that is, denial of Judicial Guarantee. Along the same line, the recurrence of cases involving Judicial Protection rights violation indicates that there is a trend on the part of the Court to intervene in lawsuits where there is a prominent violation of legal-technical procedures occurring within the judiciary systems of each State. Therefore, what is evidenced here is the insufficiency of State internal judicial capacities.

In 48 lawsuits, complaints are against States for violating article 5, which guarantees the right to personal integrity. The cases linked to the disrespect of guarantees established by this article are often connected to situations of torture, mistreatment or any other inhumane and degrading treatment on the part of agents of the States or through their omission.¹³

The right to life, guaranteed by article 4, was mentioned in 36 lawsuits having been allegedly violated by

11 The Convention establishes in this article that. Every person has the right to a simple and quick appeal or any other full appeal, before the authorized judges or courts, which protects them against acts that violate their fundamental rights recognized by the Constitution, the law or this Convention, even when that violation is committed by people who are acting in the capacity of their official functions. INTERAMERICAN CONVENTION ON HUMAN RIGHTS. Article 25, 1969.

12 In accordance with article 8 of the Convention, every person must be heard, with the due guarantees and within a reasonable time period, by an authorized, independent and impartial judge or court, established by law, in the investigation of any criminal accusation brought against them, or in the determination of their rights and obligations of a civil, labor, fiscal or any other nature. INTERAMERICAN CONVENTION ON HUMAN RIGHTS. Article 8, 1969.

13 Besides this, there are cases where article 5 is mentioned due to the incompatibility of procedures exercised by the State Public Authority party to the Convention with what is set out in subparagraphs 1, 2, 3, 4, 5 and 6 of the referenced article.

some State. This article is mostly related to events where there were extreme situations of human rights violations, given that, in 84% of the lawsuits that complained of article 4 violations, the victim or victims were killed. In the same manner, article 7, which guarantees personal liberty was cited 36 times for alleged violations. This article, for the most part, deals with episodes of arbitrary deprivation of liberty, arrests and forced disappearances. It is worth noting that this article, in many cases, was mentioned in connection with violations of article 8, after all, due legal process in cases of arbitrary deprivation of liberty was undeniably not respected. Article 13, which concerns the guarantee of freedom of thought and expression, was cited in 11 litigious suits.

Finally, article 19, which establishes the specific rights of children was mentioned ten times in lawsuits alleging the violation was committed in the scope of the states. The violating countries¹⁴ did not therefore respect the provisions of article 19 which establishes that every child has the right to the protection measures that their condition as minor requires, on the part of their family, society and the State. In three cases, the assaults were not strictly directed at children, but rather at entire communities in which children figured among the victims. The practice of the Court seems evident in so far as the protection of children's rights, especially when judges' votes and the special characteristics of the sentences given in these cases are accessed. The next session of this paper concerns itself exclusively with the specific procedures of the Inter-American System with regard to children's rights violation lawsuits.

4. INTER-AMERICAN SYSTEM PROCEDURES IN CHILDREN'S RIGHTS VIOLATION LAWSUITS

In relation to children's rights, since it began, the court has accepted eleven specific cases (from 1993 to 2008),¹⁵

14 Guatemala (Caso Molina Theissen- 2004); Peru (Hermanos Gómez Paquiyauri-2004); Guatemala (Caso Carpio Nicolle y otros- 2004); El Salvador (Caso las Hermanas Serrano Cruz- 2004); Dominican Republic (Caso las Niñas Yean y Bosico-2005); Colombia (Masacre de Mapiripan-2005); Colombia (Masacre de Pueblo Bello-2006); Colombia (Caso Masacre de Ituango-2006); Paraguay (Caso Varcas Areco- 2006); Mexico (Caso González- 2009).

15 Apart from the seven specific cases, there is mention in other court records of the violation of Children's Rights (article 19), contained in the Inter-American Convention, as follows: Caso Massacre Pueblo Bello vs Colombia, 2006; Caso Massacre de Ituango vs

whereby two cases produced the deliberation of provisional remedies and nine resulted in judgments (litigious cases), as summarized in the Table below. The Court also prepared a consultative opinion relative to the rights of the child in the scope of the Inter-American system.

See Table 5 - Children's Rights Violation Lawsuits

In the nine litigious cases judged, the court determined that, apart from the measures aimed exclusively at the victims and their families (such as compensation), other measures with wider public meaning and political repercussions in the scope of the States should be undertaken. These agreed measures determined the publication of the cases in newspapers and official journals, the holding of public reparatory acts and of awareness courses for government agents, as well the introduction of administrative and legal changes to the laws of the countries in which the violations took place to adequate them to the Inter-American Convention.

In relation to compliance with court decisions, based on the analysis of sentence monitoring, it is noted that the States tend to follow through measures such as the payment of compensation to victims and/or family members and measures relating to publicizing the case or preserving the victims' memory. However, the States, for the most part, have not complied with measures relating to the reopening of cases to investigate responsibility and punish agents of the State for violations committed against children.

In order to better understand the lawsuits involving children that are judged by the court, the case Walter Bulacio¹⁶, which took place in Argentina, was selected for analysis.

The documents analyzed are the judgments of merit, reparation and supervision of sentence compliance, and the analysis categories considered are as follows: a) the witness as proof; b) the type of reparation measures determined and their meaning in the scope of the states and c) compliance with Court sentences by the States.

4.1 The "Bulacio versus Argentina" Case

Walter David Bulacio was arrested and killed by Argentine federal police in April, 1991 after a mass detention operation called "razzia". The 17 year old was a high

Colômbia, 2006 and Caso Gonzáles and others vs Mexico, 2009.

16 This case was already analyzed in another article presented in congress in 2011, but its analysis was modified and put forward with other analytical purposes in this article.

school student and worked on a golf course. His detention was not informed to the judiciary branch and his family were only told a few days before he died while interned in a hospital. Still in 1991, judicial proceedings were opened which remained unconcluded ten years later. Walter Bulacio's family, through their representatives, referred the case to the Inter-American Commission on Human Rights where it was transferred to the Court. The Court accepted the case considering that the following articles of the Convention were violated: Right to Life (article 4), Right to Personal Integrity (article 5), Right to Personal Freedom (artigo 7), Rights of the Child (article 19), Judicial Guarantees (article 8), Judicial Protection (article 25) and Obligation to Respect Rights (article 1). In 2003, the Court held a hearing to deliver the "Judgment on Reparations and Merits" and, in 2008, the last section on "Supervision of Sentence" took place.

During the public audience, held in 2003, the State of Argentina recognized its international responsibility for the violations that had occurred, and procedures for the establishment of reparation proceedings for the damages caused to the victim and his family were undertaken.

As proof, copies of the internal judicial proceedings and two expert statements were included, one requested by the Commission and family members, and another by the Argentine State. As witness and expert evidence, the testimony of the victim's mother, Graciela Rosa Scavone; of a person from a mental health group that supports families that suffered torture during the dictatorship (Graciela M. Guilis) and from a director in the "Public Defender's Study and Investigation Institute of Buenos Aires" (Sofia Tiscornia) were included in the lawsuit. The analysis of these witnesses allows us to establish some significant relations between memory and reparation.

In her testimony, Walter's mother describes her son and the manner in which she became aware of the facts, as shown below:

At the time of the events, Walter David Bulacio was 17 years old and was finishing high school. He was a good student and planned to study law and specialize in diplomacy. He also worked part-time as a caddie at a golf course. His income depended on what his clients gave him; however, "it could be up to 20 pesos" daily, which he used, in part, to support his family.¹⁷

17 INTER-AMERICAN COURT OF HUMAN RIGHTS. *Caso Bulacio versus Argentina*: Sentencia de fondo e reparações. Available in: <<http://www.corteidh.or.cr/casos.cfm>>. Access in: 01 jul. 2012. p. 21

That Saturday she noticed that Walter David had not spent the night at home. The witness did her household chores. About 3:00 or 4:00 p.m. a boy came and said that Walter David had been arrested and they should go look for him. She went to her husband at work and from there they went to the police station, where they were told that Walter David was somewhere else. Finally, they found him at 11:00 p. m. or 12:00 p.m. on that same day, hospitalized.¹⁸

In relation to the consequences of the death for the family, Walter's mother says in her testimony that:

After her brother's death, Lorena Beatriz Bulacio, his sister, had many health problems. She suffered severe depression, then suffered bulimia and had to be hospitalized several times to save her life. She is currently 26 years old and is a young woman who "never goes outside her house."

Victor David Bulacio, Walter's father, was hardworking and contributed to the family financially. When the events took place, he went crazy and his life fell apart: he began to be absent from work, until his employers fired him, for which reason he did temporary jobs; he began to take drugs and left the household. He would not see his daughter Lorena Beatriz, because he said that it caused him great pain to see her and the witness, and that "he could not bear it."¹⁹

Regarding the stance of the State during the internal proceedings, Walter's mother highlights the attempt by the authorities to transform her son from a victim into a delinquent and ends her testimony with an appeal to justice:

The response of the State, over all these years, was to "question the morality of the family." They questioned what type of people the members of the family were and what type of person Walter David was: a criminal, a homosexual, a drug addict. She suffered these accusations regarding Walter David by a State attorney during a hearing at a courtroom.

She regrets very much having had to come before the Court, as she would have preferred if things had been resolved in her country. She asked the Court, insofar as possible, to do something so that what happened to her son would not happen to any other youth. All she wants is "justice, nothing more."²⁰

18 INTER-AMERICAN COURT OF HUMAN RIGHTS. *Caso Bulacio versus Argentina*: Sentencia de fondo e reparações. Available in: <<http://www.corteidh.or.cr/casos.cfm>>. Access in: 01 jul. 2012. p. 22

19 INTER-AMERICAN COURT OF HUMAN RIGHTS. *Caso Bulacio versus Argentina*: Sentencia de fondo e reparações. Available in: <<http://www.corteidh.or.cr/casos.cfm>>. Access in: 01 jul. 2012. p. 23

20 INTER-AMERICAN COURT OF HUMAN RIGHTS. *Caso Bulacio versus Argentina*: Sentencia de fondo e reparações. Available in: <<http://www.corteidh.or.cr/casos.cfm>>. Access in: 01 jul. 2012. p. 24

The second testimony was given by Graciela M. Giullis, psychologist, member of a mental health group that follows cases relating to the effects of torture during the dictatorship. Graciela cared for the family members after Walter's death and in her testimony she points out the severe consequences for the family: "At the time of the facts, Walter's family had a traditional structure. His death caused a disruption which established "a *before and after* in the form of this family's existence."²¹

Graciela goes on to highlight that the situation of the family members worsened especially after the investigations were interrupted and there was no sentence issued:

Since 1996, due to obstruction of the investigation into what happened and the lack of a judgment, all indicators and signs shown by the members of the household grew dramatically and their pathologies worsened. Furthermore, the loss of their jobs was due to "the subjective conditions they were undergoing and [...] the burden this meant to their existence."²²

With respect to Lorena Beatriz Bulacio, Walter David Bulacio's sister, the expert witness pointed out that she was 14 at the time her brother died. The next year, Lorena Beatriz suffered a serious pattern of bulimia that persisted throughout almost all her adolescence; beginning in 1996, at age 19, she attempted suicide twice and was hospitalized for extended periods in neuropsychiatric centers. During the interviews with Lorena Beatriz, she stated that what kept her alive was for her "mother not to lose another child," and at the same time she was afraid that someone might die, and therefore she preferred to die.²³

The third witness was Sofia Tiscornia, director of the "*Instituto de Estudios e Investigaciones de la Defensoría del Pueblo de la Ciudad de Buenos Aires*" (Public Defender's Study and Investigation Institute of Buenos Aires). In her testimony, Sofia does not refer specifically to Walter's case, but denounces the severity of the "razzios" and points out how young people are the principal victims of this practice:

21 INTER-AMERICAN COURT OF HUMAN RIGHTS. *Caso Bulacio versus Argentina*: Sentencia de fondo e reparações. Available in: <<http://www.corteidh.or.cr/casos.cfm>>. Access in: 01 jul. 2012. p. 24

22 INTER-AMERICAN COURT OF HUMAN RIGHTS. *Caso Bulacio versus Argentina*: Sentencia de fondo e reparações. Available in: <<http://www.corteidh.or.cr/casos.cfm>>. Access in: 01 jul. 2012. p. 24

23 INTER-AMERICAN COURT OF HUMAN RIGHTS. *Caso Bulacio versus Argentina*: Sentencia de fondo e reparações. Available in: <<http://www.corteidh.or.cr/casos.cfm>>. Access in: 01 jul. 2012. p. 25

The usual practice for detention of individuals by the police in Argentina, especially in the city of Buenos Aires, is the so-called "razzias", "detentions to verify criminal 25 records," which then became "detentions to verify identity," as well as "detentions based on police edicts on misdemeanors or police codes on minor offenses." [...] In these police procedures there are several aspects of concern, including the fact that judicial control is usually belated or even non-existent. In the case of detentions to verify identities, the police generally submit to the judge, belatedly, a list of persons detained, stating as causes for detention: "loitering," "wandering aimlessly," "window watching;" [...] ²⁴

An important point in the testimony of Sofia Tiscornia is that the case of Walter's death had become emblematic for young Argentines. This argument is made as a form of highlighting the need of the Court to adopt reparation measures to "maintain and expand" the memory of the event:

The Bulacio Case has been "emblematic and [...] paradigmatic" in Argentina, primarily because Walter David Bulacio, who was detained at a rock concert, was part of the younger generation of the democratic 90s and this caused "a type of strong identification effect." Given what happened to Walter David Bulacio, most Argentine youths "felt that their image was reflected in [him]," as "what happened to Walter [David] Bulacio [...] could have happened to any [Argentine] youth [of his age]." Furthermore, a social movement of youths who are now thirty years old followed this case actively, which shows its generational continuity, expressed through student demonstrations, videos, movies, publications, and lectures.

As regards measures of reparation, she stated that it is important to maintain and expand remembrance of this case, which in any case already exists among a part of the population.²⁵

The third testimony allows for an interpretation of Walter's killing that transcends the individual plane. The case is presented in a paradigmatic manner and in its public dimension, highlighting the 'razzias' as an arbitrary and violent police practice aimed at young people in particular.

The three witnesses had an important weight in defining the reparations established by the Court. In the reparations judgment, the Court determined that the State should:

24 INTER-AMERICAN COURT OF HUMAN RIGHTS. *Caso Bulacio versus Argentina*: Sentencia de fondo e reparações. Available in: <<http://www.corteidh.or.cr/casos.cfm>>. Access in: 01 jul. 2012. p. 25

25 INTER-AMERICAN COURT OF HUMAN RIGHTS. *Caso Bulacio versus Argentina*: Sentencia de fondo e reparações. Available in: <<http://www.corteidh.or.cr/casos.cfm>>. Access in: 01 jul. 2012. p. 27

1) compensate the family for material and moral damages, totaling U\$ 124,000.00 and U\$ 210,000.00 respectively and pay the legal costs;

2) complete the investigations and punish those responsible;

3) publish the court's decisions in the official national gazette and;

4) bring about amendments to Argentine legislation relating to minors so as to adequate them to the principles contained in the Inter-American Convention.

It is worth noting that, according to the supervision sentences of the Walter Bulacio case, almost all the reparation measures were complied with by the Argentine state, such as compensation and measures relating to the preservation of the victim's memory. However, a fundamental measure was not fulfilled, the accountability and internal judgment of the perpetrators of this killing. It must be highlighted that this is a recurring practice among the States, as research results and other surveys relative to the Inter-American system show.²⁶

5. FINAL CONSIDERATIONS

The analysis of parameters that characterize the work of the Commission and Inter-American Court allow us to prove the initial hypothesis proposed.

The Inter-American system of human rights may be considered effective in being endowed with legal norms and institutions of an interpretative and deliberative-enforcement type (according to the typology prepared)²⁷. However, when you analyze the procedures and mode of operation adopted by the commission and Inter-American court, by means of the complaints of human rights violations, the limitations of the system become apparent.

There is a notable insufficiency of structural capacity on the part of the Inter-American System in the face of the volume of violation complaints received. The commission accepted around 8.5% of the complaints it received in 2009 and, of these, a reduced number were

sent to the court. The court itself, even though it has increased its capacity, after the 2001 reform, still accepts a quite restricted number of lawsuits.

The 2001 reform consisted in an attempt to broaden the court's activity but it could come to compromise the quality of the proceedings. Some measures adopted such as reducing the number of hearings and witnesses per case can compromise the quality of the lawsuit thereby lessening the impact of decisions in the scope of the States in which the violation took place, seeing as, with the reduction in time, the possibility for internal publicity and the mobilization of movements around the cases becomes restricted. With the reduction of witnesses, the quality of the lawsuit can be compromised in terms of producing evidence that could potentially be used in the reopening of internal processes to determine the responsibility of agents from the State reported for violation

Through this ascertainment of the limits, we sought, over the course of this article, to understand the parameters that guide the work of the Commission and the Court. The cases accepted and judged by the Court in the period from 2004 to 2009 show a similar pattern:

The majority of litigious cases came from non-governmental organizations, many of which specialize in the promotion of human rights. This may mean, on the one hand, that the expertise of organizations results in better structured complaints that therefore have more chances of being accepted; on the other hand, it could mean that the Court tends to accept cases that, due to the support of organizations, obtain greater visibility and pressure on public opinion in the country. As indicated by Cavallaro and Brewer, the support and pressure of organizations can also contribute to the State complying with the court's determinations.

The violations of rights most cited and recognized by the court, in lawsuits judged – and that therefore resulted in the assignment of international responsibility on the part of the accused State – are those that refer directly to internal judicial proceedings, that is, the right to judicial guarantee and judicial protection. This fact denotes that there is probably a Court preoccupation in emphasizing to the States the importance of compliance and the validity of an internal legal structure that acts in conformity with the legal standards agreed in the Inter-American Convention, founded principally with respect to due legal process.

26 For example, the research made by James Cavallaro and Stephanie Brewer published in 2008.

27 DONELLY, Jack. International human rights: a regime analysis. *International Organization*, Toronto, v. 40, n. 03, p.599-642, 01 jun. 1986.

The parameters defined therefore reveal that the Court considers, beyond technical criteria, the possibility that its legal decisions are effectively accepted by the States and that, as such, it is fundamental to have the support of specialized non-governmental organizations and internal pressures.

In lawsuits for violations of children's rights, these same parameters were identified. It was noted, for example, that there was a preference for accepting cases sent by organizations and/or mixed and of adopting reparation measures with repercussions of a public nature and not just individual. A specific conclusion, resulting from the qualitative analysis of the Walter Bulacio case, that is, the importance of witnesses as proof, was noted. The testimonies of the victims' families had been disregarded and even excluded from judicial processes held in the Argentine State. The judgments that took place in the Court were where the witnesses were rehabilitated, later achieving the status of proof.

This fact indicates that the Court should cautiously evaluate measures reducing the number of witnesses (adopted through the 2011 reform), since this could come to compromise the reopening and effective judgment of guilty parties in the internal scope of the States.

Finally, it needs to be stressed that, despite its limitations, the Inter-American System is potentially more effective than the UN's international system, in terms of protecting human rights and children. Therefore, from a prescriptive perspective, it is up to the Commission, the Court and the regional human rights defense organizations to work in a cohesive manner to intensify forms of pressure capable of, on the one hand, improving the structural conditions essential to the widening and effective working of the Inter-American system and, on the other hand, amplifying the degree of compliance with their decisions on the part of the States.

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TABLES

Table 1 - Variables used in empirical analysis

Variable 1: Status of country in the Inter-American system (by country)			
a) OAS Member	b) Ratified the Inter-American Convention (therefore recognizes the commission)	c) Ratified and Recognized the Inter-American Court as obligatory jurisdiction	d) Ratified and Does Not Recognize the Inter-American Court as obligatory jurisdiction
Variable 2: Receipt and referral of complaints by the Commission			
a) complaints received by the commission (by country)		b) complaints accepted by the commission (by country)	
Variable 3: Referral of complaints from the Commission to the Court			
complaints accepted by the Commission (per year)		complaints accepted by the Court (per year)	
Variable 4: Cases Judged in the Court by authorship (by cases)			
a) Individual		b) Mixed	c) Collective
Variable 5: Cases Judged by the Court in relation to rights violated (by cases)			
Violated Articles			

Source: Table prepared by the authors.

Table 2 - Status of the Country vs Complaints

Country	Status of the country in the Inter-American system	Complaints sent	Complaints accepted (Absolute and percentage)	
Colombia	RCOJ*	237	13	5,40%
Mexico	RCOJ	232	5	2,15%
Peru	RCOJ	201	46	22,80%
Argentina	RCOJ	159	28	17%
Chile	RCOJ	107	2	1,86%
Costa Rica	RCOJ	106	2	1,88%
Brazil	RCOJ	83	2	2,40%
United States	NRA**	77	2	2,59%
Ecuador	RCOJ	37	5	13,10%
Venezuela	RCOJ	31	2	6,45%
Guatemala	RCOJ	30	2	6,66%
Panama	RCOJ	26	1	3,84%
Bolivia	RCOJ	24	2	8,33%
Honduras	RCOJ	19	3	15,78%
El Salvador	RCOJ	9	2	22,22%
Paraguay	RCOJ	8	0	0%
Nicaragua	RCOJ	7	0	0%
Dominican Rep.	RCOJ	7	1	14,28%
Uruguay	RCOJ	7	0	0%
Haiti	RCOJ	6	1	16,66%
Canada	NRA	4	0	0%
Cuba	NRA	3	0	0%
Jamaica	RCOJ	3	0	0%

Guyana	NRA	2	0	0%
Suriname	RCOJ	2	1	50%
Trinidad and Tobago	RCOJ	2	2	100%
Antigua and Barbuda	NRA	0	0	0%
Bahamas	NRA	0	0	0%
Barbados	NRA	0	0	0%
Belize	NRA	0	0	0%
Dominica	NRCOJ ***	0	0	0%
Grenada	NRA	0	0	0%
Saint Kitts and Neves	NRA	0	0	0%
Saint Vincent and the Grenadines	NRA	0	0	0%
Santa Lucia	NRA	0	0	0
Total of Countries: 35		1431	122	

Source: Data relative to complaints corresponding to the year 2009.

* RCOJ- the country ratified and recognizes the court's obligatory jurisdiction;

** NRA- the country did not ratify the convention;

*** NRCOJ- the country ratified but does not recognize the court's obligatory jurisdiction.

Table 3 - Cases accepted by the Commission vs Cases presented to the Court

Commission		Cases presented	
Year	Accepted Cases	Year	to the Court
2004	160	2005	10
2005	150	2006	14
2006	147	2007	14
2007	126	2008	9
2008	118	2009	11

Source: Table prepared by authors

*There is no systematized data after 2009¹.

1 ALL DATA ANALYZED ARE EXTRACTED FROM ANNUAL. Inter-American Commission Of Human Rights Report. Available In: <<http://cidh.oas.org/annualrep/2009sp/cap.3b.09.sp.htm>>. Access in: 03 nov. 2013

Table 4- Recurrence of rights violation

Article	Definition	Quantity of Complaints
Article 25	Judicial Protection	61 complaints
Article 8	Judicial Guarantees	58 complaints
Article 5	Right to Personal Integrity	48 complaints
Article 7	Right to Personal Freedom	36 complaints
Article 4	Right to Life	36 complaints
Article 13	Freedom of Thought and Expression	11 complaints
Article 19	Right of the Child	10 complaints

Source: Table prepared by authors based on case records. See www.corteidh.or.cr for more

Table 5 - Children's Rights Violation Lawsuits

Cases accepted by the Court	Court Decisions/Rulings on States held responsible
1- Gonzalo Xavier and Matias A. R. Tolosa <i>versus</i> Argentina (1993-1994) – illegal appropriation and registry of two children with false identities in the name of third parties, during the military dictatorship.	M.P. – determines that the State must adopt the measures necessary to return the children to their biological families.
2- Adolescents deprived of their liberty in FEBEM of Tatuapé in São Paulo- Brazil (2005) - complaints of mistreatment and torture of adolescents interned in FEBEM, as well as the death of adolescents having occurred even after the Inter-American Commission had recommended a precautionary measure to attempt to safeguard the lives of internees.	M.P. – determines that the State must a) reduce unit overcrowding; b) confiscate the weapons in the adolescents' possession, c) separate the internees according to the severity of their crimes, d) provide medical care and guarantee the right of internees to humane treatment, e) periodic supervision by the State with the participation of representatives.
3- Street children <i>versus</i> Guatemala- (1999 - 2008) assassination of five young people, three of whom were minors. The complaint also indicated that four of these young people had been kidnapped and tortured by the police. Inter-American Convention violated articles: 1; 4; 5; 7; 8; 25 and of the "Inter-American Convention to Prevent and Punish Torture" – articles 1,6 and 8.	C.C- The State must: a) bear the costs of the lawsuit; b) compensate the families of the victims for material and moral damages; c) reopen the internal process of investigation to punish the authors; d) adopt measures to avoid new violations occurring and e) ensure the memory of the victims and the violations is recorded.
4- Bulacio <i>versus</i> Argentina (1999-2008) – imprisonment, torture and killing of a 17 year old by the Argentine police, whereby ten years after the fact the domestic suit has not been concluded Inter-American Convention violated articles: 4; 5; 8; 7; 19; 25.	C.C- The State must: a) complete investigations and punish the guilty; b) publish court decisions in national newspapers; c) compensate the families of victims and pay the legal costs. Judgment of Merit (2003). Judgment of sentence compliance follow-up (2004).
5 – Molina Theissen <i>versus</i> Guatemala (1998-2004) – kidnapping of 14 year old by the army in 1981, which also happened to other children at the time. Inter-American Convention violated articles: 4; 5; 7; 8; 19; 25.	1C.C [1] – The State must: a) compensate the families of the victims for material and moral damages; b) investigate the facts and judge those responsible; c) look for the victim's remains; d) publish the sentence; e) hold a public act of recognition; f) bear the legal costs; g) other legislative measures. Reparation and costs judgment (2004).

6- Irmãos Gómes Paquiyauri <i>versus</i> Peru (1993-2004) – kidnapping and extra-judicial execution of two brothers in 1991 by agents of the national police. Rights violated: 4; 5; 7; 19; 25.	C.C- The State must: a) compensate the families of the victims for material and moral damages; b) investigate the facts and judge those responsible; c) publish the sentence, d) hold a public act of recognition.
7- Institute of Re-education for Minors Paraguay (1996-2001)- as a result of three fires that occurred in the internment institute (in 2000 and 2001) 10 adolescents died and 38 had severe injuries and intoxication. After the fires, the adolescents were transferred to adult prisons. The lawsuit also covers the previous period (1996 -2000) including several complaints of rights violations of all the internees: mistreatment, violence, abuses and inhumane conditions. These complaints had already been forwarded to the Commission before the fires and they had determined the closure of the unit. Inter-American Convention violated articles: 4; 5; 7; 8; 19. CRC rights and rights from other treaties are also mentioned.	C.C- The State must: a) pay damages to all internees from 1996-2001, to fire victims, internees transferred due to closing and the families of the victims in the case of internees who were killed; b) publish the sentence, c) hold a public act declaring responsibility; d) assume the psychological treatment of all ex-internees; protect victims and witnesses in the lawsuit; e) pay the legal costs. Reparation judgment (2004); Judgments of sentence compliance supervision: 2006; 2007 and 2008.
8- Hermanas S. Cruz <i>versus</i> El Salvador (2004). Kidnapping and forced disappearance of two sisters, in 1998, by members of the Salvadorian army. Inter-American Convention violated articles: 8.1 and 25.	C.C- The State must: a) compensate the families of the victims for material and moral damages; b) investigate the facts and judge those responsible; c) publish the sentence, d) hold a public act of recognition; e) create a commission to investigate the disappearance of children; e) pay the legal costs. Judgment and reparation on merits (2005).
9- Ninas Yean and Bosico <i>versus</i> the Dominican Republic. (2005) The State denied birth registration to the children of a Dominican mother and Haitian father, and so both of them were unable to enjoy other rights. One of them went one year without being able to attend school due to the lack of registration. Inter-American Convention violated articles: 1.1, 3,5, 18,19, 20, 24.	C.C- The State must: a) compensate the family for moral damages; b) adopt all legal and administrative measures to regulate the procedure for granting nationality through late declaration of birth, in internal law; c) publish the sentence, d) hold a public act recognizing responsibility; e) pay legal costs. Judgment on merits (2005). Interpretation on preliminary merit and reparation exceptions (2006), Supervision of sentence compliance (2007).
10- Servellon Garcia <i>versus</i> Honduras (2006). Detention in degrading conditions of two adolescents along with adults and their execution by police agents in 1995. Inter-American Convention violated articles: 4, 5, 7, 8 and 25.	C.C- The State must: a) adopt all the necessary measures to identify, judge and punish the material and immaterial authors responsible for the violations; b) create a database on the execution of children with information on the authors, among others; c) publish the sentence; d) hold a public act recognizing responsibility; d) carry out a public authority training program on special protection and international norms relating to young people; e) hold an awareness campaign in Honduran society in relation to the full protection of the child; f) compensate the families of the victims for material and moral damages; g) pay legal costs. Judgment and reparation on merits (2006) Supervision of sentence compliance (2008).

11-Vargas Areco <i>versus</i> Paraguay, (2006) a 15 year old who was completing military service did not return on time from leave to visit his family. His penalty was to be imprisoned in December 1989. On attempting to flee the prison he was shot by a sub-official and his body was found 100 meters from the military camp. Inter-American Convention violated articles: 4, 5, 7, 8, 19 and 25.	C.C- a) adopt all the necessary measures to identify, judge and punish the authors responsible for the violations; b) publish the sentence; c) hold a public act recognizing responsibility; d) hold training courses on human rights for the armed forces; e) adequate legislation on recruitment of minors into the armed forces in conformity with international legislation; f) compensate families of victims for material and moral damages g) pay legal costs. Judgment and reparation on merits (2006).
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Source: Table prepared by the authors²

² This work incorporates the findings included in papers already published in two congresses: II ISA Forum and SBS Congress. To see more information go: Available In: <http://www.automacaodeeventos.com.br/sigeventos/sbs2013/admin/pro_lista_programa.asp?strConsultar=S&eventId=1>. Access in: 15 jul. 2013.